REMARKS

This application has been reviewed in light of the Office Action dated January 31, 2007. Claims 1-8 are presented for examination, of which Claim 1 is in independent form. Claims 1, 4, and 6 have been amended to define Applicants' invention more clearly. Favorable reconsideration is requested.

Claims 1, 4, and 6 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have carefully reviewed and amended Claims 1, 4, and 6 as deemed necessary, to ensure that it conforms fully to the requirements of Section 112, second paragraph, with special attention to the points raised in point 3 of the Office Action. It is believed that the rejection under Section 112, second paragraph, has been obviated, and its withdrawal is therefore respectfully requested.

Because the Examiner did not address Applicants' July 5, 2006, Amendment After Final in response to the May 31, 2005 Office Action and the rejection in that action have been repeated in the January 31, 2007 Office Action, Applicants have repeated their response to the May 31, 2005 rejection below.

Claims 1-4 and 6-8 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent Publication No. 2001/0053944 A1 (*Marks et al.*), hereinafter "Marks", in view of U.S. Patent No. 6,248,946 (*Dwek*), claim 5 was rejected under 35 U.S.C. § 103(a) as allegedly being obvious over *Marks et al.* and *Dwek* in view of U.S. Patent Publication No. 2001/0025259 A1 (*Rouchon*). These rejections are respectfully traversed.

Independent Claim 1

Independent claim 1 relates to a system for managing the delivery of content over a network to a user. The system includes a station and playlist module for managing the content delivered by one or more stations, in which at least one of the stations includes two or more playlists, and only one specifies the content delivered by that station at any one time. And in accordance with a salient aspect of the claim 1 invention, the user may add content to at least one of those two or more playlists.

As pointed out in the Amendment filed on March 22, 2005 and July 5, 2005, *Marks et al.* relates to an audio Internet navigation system, and describes methods for searching, selecting and playing audio program lists. The Office Action concedes that *Marks et al.* does not teach that a user may add content to a playlist, but contends that this feature is taught by *Dwek*, and that a combination of those references would have been obvious. However, this is respectfully disagreed with for the following reasons.

Even if *Dwek* be deemed to show adding selections to a playlist, to combine its teaching with *Marks et al.* is inappropriate in view of *Marks et al.*' affirmative teaching that it is a "hit the ground running" system, which allows a user to mold a station's playlist without requiring him to seek or pick any program selections. See ¶ 48. Thus, *Marks et al.* teaches away from a system in which, as in *Dwek*, a user makes selections to be added to a playlist.

It is well established that "[i]t is improper to combine references where the references teach away from their combination." MPEP § 2145 X.D.2., Rev. 5, Aug. 2006 (citing *In re Grasselli* , 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)) (emphasis added). Given that *Marks et al.* teaches away from a system in which a user makes selections to

be added to a playlist, it would be improper to combine *Marks et al.* with *Dwek* in the manner proposed in the Office Action.

For the above reasons, it is believed that the rejection of independent claim 1 has been obviated, and its withdrawal is therefore respectfully requested.

The Dependent Claims

The other rejected claims in this application depend from independent claim 1 discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

CONCLUSION

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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